

Responses to Questions Submitted on the Algebra Diagnostic Test RFP

1. Where on the VA DOE site is the Minority/Women Owned Businesses Subcontracting and Reporting form located?

The Web site address is:

<http://www.pen.k12.va.us/VDOE/Technology/soltech/soltech.html>

2. Does the VA DOE require a separate item pool for each of the four grades or can one item pool be used for all students?

The VA DOE wants an item pool for the Standards of Learning in each of the four grades: 6, 7, 8 and 9.

June 18, 2001

**Request for Proposals  
"RFP"**

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**RFP #: RFP-WEB2001**

**Issue Date:** May 30, 2001

**Title:** Algebra Readiness Diagnostic Test

**Commodity Code:** 92002

**Issuing Agency:** Commonwealth of Virginia  
Virginia Department of Education  
P.O. 2120  
Richmond, Virginia 23218

**Using Agency:** Virginia Department of Education  
P.O. 2120  
Richmond, Virginia 23218

**Period of Contract:** From Date of Award to June 30, 2002 with the option for five (5) one-year renewals, ending June 30, 2007.

**Sealed proposals will be received until 3:00 pm EST, June 22, 2001, for furnishing the services described herein.**

**Full RFP document available at:** <http://www.pen.k12.va.us/VDOE/>

**All inquiries for information should be directed to:**

Ms. Maureen B. Hjar, Director, Office of Middle Instructional Services  
Virginia Department of Education (804) 225-3616

**Sealed proposals must be shipped via Certified Mail with Return Receipt Requested or hand delivered to:**

Ms. Julia Norman, Virginia Department of Education, 101 N. 14<sup>th</sup> Street, **20th Floor**, Office of Middle Instructional Services, Richmond, Virginia 23219. Offerors hand delivering proposals must sign a receipt log upon conveying the proposals to Ms. Norman.

In compliance with this Request for Proposals and to all the conditions imposed herein, the undersigned offers and agrees to furnish the services at the price(s) indicated on the pricing schedule listed in the Request for Proposals.

Name and Address of Offeror:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone: (    ) \_\_\_\_\_

FIN or Social Security Number: \_\_\_\_\_

# Virginia Department of Education

## *Algebra Readiness Diagnostic Test*

Request for Proposal # **RFP-WEB2001**

### CONTACT INFORMATION:

Ms. Maureen B. Hjar  
Director, Office of Middle Instructional Services  
Virginia Department of Education  
101 North 14<sup>th</sup> Street  
Richmond, Virginia 23219  
Telephone: (804) 225-3616  
Fax: (804) 786-1597

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# Section 1 – Background and Proposal Guidelines

## **I. Purpose of the Request for Proposal**

This Request for Proposal (RFP) is presented by the Virginia Department of Education (DOE). The intent is to solicit sealed proposals from qualified Offerors to establish an Algebra Readiness Diagnostic Test (ARDT) for grades 6, 7, 8, and 9. The ARDT shall be designed to provide sufficient diagnostic information to inform intervention and remediation activities geared to provide the student with sufficient skills to be successful in later mathematics coursework, including Algebra I. Any contract awarded will be concluded through competitive negotiations and remain in effect for a period from the date of award through June 30, 2002 with the option of five (5) one-year renewals.

## **II. Background to the Project**

### *Education in the State of Virginia*

The Commonwealth of Virginia is composed of 132 school divisions with 1835 public schools. In the fall of 2000, the public school enrollment was 1,144,913 in grades K-12. Virginia is a strong local control state with local school divisions having the primary responsibility for public education. The Virginia Board of Education is composed of nine members appointed by the Governor for staggered four-year terms. The President and Vice-President of the Board are elected by the Board from its membership. The Board of Education assumes a policy role typical of state boards across the country.

In June 1995, the Board of Education adopted revised Mathematics Standards of Learning to better prepare students for Algebra I, the Mathematics Standards of Learning in K-8 include the building blocks for algebra. However, students who have not studied the more rigorous Standards of Learning curriculum in previous grades may need additional instruction in the foundations of algebra to ensure students' success in Algebra I.

In July 2000, the Board of Education adopted a revision to the Standards of Accreditation (SOA) for Virginia's public schools. The SOA outline the requirements for student testing, graduation and the requirements for the accreditation of schools in the Commonwealth. As specified in the SOA, all students are required to earn three credits in mathematics with the minimum accepted course being Algebra I. In addition, beginning with the graduating class of 2003-2004, most students will need to pass the Algebra I Standards of Learning end-of-course test to graduate from high school. The newly revised SOA may be found on the Department of Education Web site.

During the 2000 session of the Virginia General Assembly, Governor Jim Gilmore introduced an initiative to fund a statewide Algebra Readiness Initiative that would contain a diagnostic test component. The mission of this project is for the Commonwealth of Virginia, Department of Education to provide school divisions with access to an algebra readiness diagnostic test to be used for pre-and post-testing of students who qualify for the initiative.

The goal of the Algebra Readiness Initiative is to provide math intervention services to students in grades 6, 7, 8, and 9 who are at-risk of failing the Algebra 1 end-of-course test, as demonstrated by their individual performance on diagnostic tests that have been approved by the Department of

Education. The Algebra Readiness Initiative will assist school divisions in their efforts to improve student performance through access to on-line diagnostic testing and immediate intervention of diagnosed areas of need.

The Department of Education is the agency with the responsibility of administering policy and implementing the programs of the Board of Education. The Superintendent of Public Instruction is the agency head and appointed by the Governor. A complete listing of the department's divisions and staff may be found on the department's Web site.

### **III. Funding Provided**

Funding will be available in FY 2001-2002 in the amount of \$600,000 for the development and administration of an on-line pre- and post-test for all students who meet the criteria for participation in the initiative.

### **IV. Selection of Suitable Offeror Solutions**

Offerors should propose a solution, which incorporates test items allowing "on-demand" test construction for pre- and post-intercession or remediation administrations. The Offeror shall provide evidence that a quality item pool is currently available to support multiple test "form" construction at both the pre- and post-test levels and an adaptive assessment format.

The ARDT must meet the following criteria:

- Use the same reporting categories as the mathematics SOL tests for grades 5 and 8.
- Indicate the level of acceptable performance on each subtest area whereby intervention remediation may be said to be successful.
- The database and user interface must generate, for users who respond incorrectly to an item, subsequent items at the next lowest prerequisite skill until either the user answers correctly or a predetermined bottom level has been reached. Intervention/remediation would be targeted at the lowest skill level of the items missed.
- Meet the industry standard requirements for psychometric quality of the items and tests proposed. Such standards should include field testing and proper test forms construction.

The ARDT must be designed to provide information at the student and school division levels. Individual student data should be aggregated to the division level, reporting for each reporting category and grade level: (1) the average score of all students taking the pre- and post-test; (2) the percentage of students below the cut score on the pre- and post-test; (3) the number of students taking the pre- and post-test. Reports shall be available in electronic and paper formats. The legislation requires that the school divisions report information to the Department of Education annually. Offerors should anticipate that the ARDT will be delivered first in the 2001-02 school year to schools in Virginia containing grades 6, 7, 8, and/or 9. A timeline for production and implementation must be provided in the proposal.

Although school division participation in the Algebra Readiness Initiative is voluntary, the need for diagnostic tools is such that the vast majority of the 869 schools containing some combination of grades 6, 7, 8, and/or 9 may participate. The number of targeted students is based upon estimates of those who fail the grade 5 and 8 SOL mathematics tests. (Grade 8 failure:  $40\% \times \text{estimated } 85,000 = 34,000$  students in need of remediation. Grade 5 failures:  $49\% \times 85,000 = 41,650$  students).

Potentially, if all 132 divisions participated and used the state funding which provided services for two of the four eligible grades (6,7,8,9) the targeted population could be between 68,000 to 83,300 students.

Offerors must provide cost information in terms of development cost and the annual cost per pupil for the use of the test(s), to include pre-testing, post-testing, and diagnostic use of the system. Any additional costs for reporting should be clearly identified. Cost figures must be provided for the next five school years. Any costs for staff development or ancillary materials needed to implement the proposed program must be stated. Proprietary software and any required licensing fees must be identified. Costs related to anticipated upgrades to software or hardware must be addressed.

#### **V. Schedule for the Request for Proposal Process and Contract Award**

<b>Event dates will be modified</b>	<b>Day</b>	<b>Due Date *</b>
RFP Published / Mailed to Offerors		
Deadline for Submission of Written Questions to RFP	Thursday	June 14, 2001
Electronic Mail Response to Written Questions Regarding the RFP (Issue Addenda, as necessary)	Tuesday	June 18, 2001
<b>Proposals Due 3:00 pm EST</b>	<b>Friday</b>	<b>June 22, 2001</b>
Notice of <i>Intent to Award</i> Posted		

*\* VDOE reserves the right to revise the above schedule.*

#### ***The Proposal Process***

The point-of-contact for all questions related to the RFP and this process is:

- Ms. Maureen B. Hajar.....(804) 225-3616

However, at its option, VDOE may request solution demonstrations during the negotiation process to clarify proposal details where necessary. These demonstrations may be viewed on-site or remotely, depending upon the nature of the issues and questions involved.

## **VI. Response to the RFP – Mandatory Response Elements**

The following categories must be addressed in the Offeror's proposal.

### ***Response 1 – Test Security***

- Describe how there is control of student's use of the Internet and/or other desktop applications during test administration.
- Explain how confidentiality of test access and access to student information will be maintained.

### ***Response 2 – Presentation of Tests and Test-related Information and Materials***

- Describe how the test administration will incorporate the four function calculator and formula sheet that are part of the eighth grade Standards of Learning assessment.
- Explain how students will navigate inside the test to include returning to review questions and change previously entered answers.
- Describe how the adaptive testing component of the ARDT will be designed; include how it will be determined when a student will be given questions from a different level.

### ***Response 3 – Development of Test Items***

- Describe how the items used on the ARDT will be developed and field tested; include the estimated number of items that will be available.
- Describe how Virginia teachers will be involved in the process of item development.
- Provide an indication of awareness that all materials produced by the Offeror in conjunction with this contract shall be the property of the Department and shall be delivered to the Department upon request. (NOTE: Offerors shall stipulate specific exceptions to this requirement, if any).

### ***Response 4 – Scoring and Reporting***

- Explain how scoring of the test will be determined (raw score, scale score, etc.). Explain the diagnostic features of the test including how the scoring will reflect the level the student started with and the one he/she moved to.
- Describe how the test results will be reported for teacher use, for parent use, and for school division use.
- Explain the information that will be available to DOE to monitor test administration. At a minimum, the information needed will be the number of students tested at any point in the testing window and system performance information.

### ***Response 5 – Training and Support***

- Describe how school supported staff will be trained in the on-line system.



- Explain the level of support necessary for a student to become proficient in using the system.
- Explain the support available at the time of testing to include availability of staff to address systems trouble shooting.

***Response 6 – System Use of Assessment Results***

- Describe how individual student assessment results are entered, updated, and deleted.
- Describe the statistical functionality provided for teachers and administrators.

***Response 7 – Hardware Requirements***

- Describe the minimum hardware requirements needed to support the user interface for ARDT and for administrative use.
- Describe what technical accommodations are available to students with special needs.

***Response 8 – Product Support***

- Describe the nature, amount of, and type of support that will be provided by the solution team for the hardware and software proposed.

***Response 9 – Project Management, Vendor Information***

- Present a comprehensive project plan that incorporates the staffing plan (position assignments) of the Offeror's team, milestones, tasks, subtasks, and resource requirements.
- Provide evidence of experience in testing and assessment contracting in the K-12 environment. Extent to which the product proposed is currently in use in other settings.
- Provide evidence of experience in providing the services described herein, including a list of previous client and a description of the services provided to them.

# Section 2 –Response to General Requirements

## I. General Requirements

### A. Questions

Offerors are invited to submit, in writing, to the Department contact person, any questions they may have about the contents of this RFP by Thursday, June 14, 2001. Written answers to all questions received will be sent to all Offerors to whom a copy of the RFP was sent and will be posted at <http://www.pen.k12.va.us/VDOE/>.

### B. RFP Response

In order to be considered for selection, Offerors must submit a complete sealed response package to this RFP.

1. One *original* printed copy
2. Twelve additional printed copies
3. One soft (electronic) copy of the Offeror's response in Microsoft Word 97 format
4. One *original* printed copy from which all proprietary material has been removed and is clearly labeled. Such copy shall be certified in writing by the Offeror as free of proprietary material as outlined in Section C.5 below.

### C. Proposal Preparation

#### 1. Completeness of Proposals

Proposals shall be signed by an authorized representative of the Offeror. All information requested shall be submitted. Failure to submit all information requested may result in the Department requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals that are substantially incomplete or lack key information may be rejected by the purchasing agency. Mandatory requirements are those required by law or regulation and are such that they cannot be waived and are not subject to negotiation.

#### 2. Organization of Proposals

Proposals shall be organized in the order in which the requirements are presented in the RFP. All pages of the proposal shall be numbered. Each narrative paragraph in the proposal shall reference the paragraph number of the corresponding section of the RFP. The proposal shall contain a table of contents which cross-references the RFP requirements. Information which the Offeror desires to present that does not fall within any of the requirements of the RFP shall be inserted at an appropriate place or be attached at the end of the proposal and clearly designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

### **3. Economy of Preparation**

Each proposal shall be prepared simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP. Fancy binding, color displays (unless directly related to requirements), promotional materials and so forth will receive no evaluation credit. Emphasis shall be on completeness and clarity of content.

### **4. Presentation of Proposals**

Written Proposals should be separated into two separately bound volumes, 1) The response to the technical and administrative aspects of the proposal, and 2) response to the cost aspects of the proposal. Proposals must be submitted in paper and electronic forms as specified in Section B above. Electronic copies shall be on diskette or CD-ROM in two separate files (technical/cost) and enclosed in the Offeror's sealed proposal package.

### **5. Ownership of Proposal**

Ownership of all data, materials and documentation originated and prepared for the State pursuant to the RFP shall belong exclusively to the State and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by a Offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror must invoke the protections of Section 11-52D of the Code of Virginia, in writing, either before or at the time the data is submitted.

The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. Offerors are reminded of the requirement that a separate, certified copy of the complete proposal which has been redacted of proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection and return of the proposal.

## **II. Specific Proposal Requirements**

Proposals shall be prepared as thoroughly and detailed as possible so that the Department may properly evaluate the Offeror's capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal:

### **A. Proposal Package**

The Offeror shall include in their submission the completed proposal and addenda, if any, signed and filled out as required.

## **B. Narrative Requirements**

The Offeror shall include a written narrative, which contains the following:

### **1. Experience**

The Offeror shall provide evidence of experience in areas related to the success of the proposed solution embodied in the RFP proposal. Such information should be provided as responses to the appropriate sections of the RFP and be sufficient to allow the evaluators of the proposal to discern the level of expertise committed to the project.

### **2. Personnel**

The Offeror shall include:

- a. The names, qualifications, and experience of personnel to be assigned to the project. If consultants or subcontractors have responsibility for any task or any aspect of any task, their responsibility and involvement must be clearly described and a letter of commitment from the consultant or subcontractor must be included. The Offeror shall provide a comprehensive list of all personnel to be assigned to the project. This list shall include a summary of each individual's function and role on the project. In addition, the Offeror may list back-up staff that may assist or replace primary individuals assigned. Back-up staff must be clearly identified as back-up.
- b. Vita of staff to be assigned to the project. The Offeror must provide a detailed vita for each staff member assigned to the project. The vita must demonstrate that the individual possesses the knowledge, ability, and experience to perform assigned tasks.

### **3. Project Plan**

In addition to the project plan requirements set forth in this RFP, the Offeror shall include the following:

#### **a. Certification of Delivery**

The Offeror shall certify that all required materials, products, and services will be delivered by the dates specified in the proposal.

#### **b. Ownership**

The Offerors shall provide an indication of awareness that all materials produced by the Offeror in conjunction with this contract shall be the property of the Department and shall be delivered to the Department upon request. (NOTE: Offerors shall stipulate specific exceptions to this requirement, if any).

#### **c. Termination of Contract**

The Offeror shall acknowledge an awareness that the Department may terminate the contract for any reason after giving written notification to the Offeror at least 60 working days in advance.

**d. Additional Requirements**

The Offeror shall acknowledge awareness of all additional requirements as stated in General Terms and Conditions and Special Terms and Conditions.

**e. Minority/Women Owned Businesses Subcontracting and Reporting**

The Offeror shall supply all information requested by this RFP on the ownership, utilization and planned involvement of small businesses, women-owned businesses and minority-owned businesses. This required information may be submitted on the form provided at <http://www.pen.k12.va.us/VDOE/>. If an Offeror fails to submit all information requested, the Department may require prompt submission of missing information after the receipt of proposals.

**III. Identification of Proposal Envelope**

The signed proposal shall be returned in a separate envelope or package, sealed and identified as follows:

FROM: \_\_\_\_\_ (Name of Offeror) \_\_\_\_\_ (Due Date) \_\_\_\_\_ (Time) \_\_\_\_\_

Street or Box #: \_\_\_\_\_ RFP# \_\_\_\_\_

(City, State, Zip): \_\_\_\_\_

RFP Title: \_\_\_\_\_

Name of Contract/Purchase Officer: \_\_\_\_\_

Selection shall be made to one Offeror deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price. Negotiations shall be conducted with the Offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each Offeror so selected, the agency shall select the Offeror(s) which, in its opinion, has made the best proposal and shall award the contract to the Offeror(s).

The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be most advantageous. (Section 11-65D, Code of Virginia)

Should the Commonwealth determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror. The award document will be a contract incorporating by reference all requirements, terms and conditions of the solicitation and the Offeror's proposal as negotiated.

#### **IV. Evaluation Award and Criteria**

<b>Criteria</b>	<b>Point Value</b>
<b>Qualifications of the Offeror for providing:</b>	<b>20</b>
<ul style="list-style-type: none"><li>▪ Ability to meet the terms of the RFP</li><li>▪ Ability to meet General Requirements and Special Terms and Conditions</li><li>▪ Quality of deliverables</li></ul>	
<b>Scope of Work (Section 1, IV and VI)</b>	<b>20</b>
<ul style="list-style-type: none"><li>▪ Completeness and soundness of proposal</li><li>▪ Feasibility of the proposal to be implemented statewide</li><li>▪ Technical merit of methodology, procedures, and techniques</li></ul>	
<b>Project Management</b>	<b>20</b>
<ul style="list-style-type: none"><li>▪ Shows a realistic and achievable project plan and timeline</li><li>▪ Evidence of knowledge of an adaptive assessment program</li></ul>	
<b>Test Development, Scoring and Reporting Services</b>	<b>20</b>
<ul style="list-style-type: none"><li>▪ Selection and/or development of items</li><li>▪ Test security and quality control</li><li>▪ Reasonableness of projected scoring and reporting timelines</li></ul>	
<b>Price</b>	<b>15</b>
One time investment and statewide implementation	
Value-added solution	
Participation of Small, Women-owned, and Minority-owned Businesses	<b>5</b>
<b>TOTAL</b>	<b>100</b>

## **V. Reporting and Delivery Requirements**

The Offeror shall provide in their response a reporting schedule to include, but not limited to the following:

- Periodic reports to establish the progress of specific tasks outlined in this RFP;
- Problems incurred and their resolution;
- Specific delivery dates for products and services required;
- Documentation of work to date.
- Paper and electronic copies must be available.

## **VI. General Terms and Conditions**

### **A. Vendor's Manual**

This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendor's Manual* and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is normally available for review at the purchasing office and in addition, a copy can be obtained by calling the Division of Purchases and Supply - (804) 786-3842, or via the Internet at <http://www.dgs.state.va.us/DPS/index.htm>.

### **B. Applicable Laws and Courts**

This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Offeror shall comply with all applicable federal, state and local laws, rules and regulations.

### **C. Anti-Discrimination**

By submitting their proposals, Offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act, and Section 11-51 of the *Virginia Public Procurement Act*.

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the Offeror agrees as follows:
  - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

**D. Ethics in Public Contracting**

By submitting their proposals, Offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

**E. Immigration Reform and Control Act of 1986**

By submitting their proposals, the Offerors certify that they do not and will not during the performance of this contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986

**F. Debarment Status**

By submitting their proposals, Offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently debarred.

**G. Antitrust**

By entering into a contract, the Offeror conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and of the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

**H. Mandatory Use of State Form and Terms and Conditions for RFP's**

Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case-by-case basis, in its sole discretion, whether to reject such a proposal.

**I. Clarification of Terms**

If any prospective Offeror has questions about the specifications or other solicitation documents, the prospective Offeror should contact the representative whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.



## **J. Payment:**

### **1. To Prime Contractor:**

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 11-69).

### **2. To Subcontractors:**

- a. A contractor awarded a contract under this solicitation is hereby obligated:
  - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
  - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2)

above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

**K. Precedence of Terms**

Paragraphs A-J of these General Terms and Conditions shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

**L. Qualifications of Offerors**

The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the Offeror to perform the services/furnish the goods and the Offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect Offeror's physical facilities prior to award to satisfy questions regarding the Offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Offeror fails to satisfy the Commonwealth that such Offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

**M. Testing and Inspection**

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

**N. Assignment of Contract**

A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

**O. Changes to the Contract**

Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt. The contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:

- a. By mutual agreement between the parties in writing; or
- b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the contractor's records and/or to determine the correct number of units independently; or
- c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

**P. Default**

In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

**Q. Taxes**

Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

**R. Announcement of Award**

Upon the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice on Monday, July 9, 2001 for a minimum of 10 days at the public posting notice board located at the street-level entrance on 14<sup>th</sup> street of the James Monroe Building at 101 North 14<sup>th</sup> Street, Richmond, VA 23219.

## **S. Drug-Free Workplace**

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

## Section 3 – Response to Special Terms and Conditions

### I. Special Terms and Conditions

#### A. Advertising

In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to the Virginia Department of Education will be used in product literature or advertising. The Offeror shall not state in any of its advertising or product literature that the Commonwealth of Virginia or any agency or institution of the Commonwealth has purchased or uses its products or services.

#### B. Audit

The Offeror shall retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

#### C. Availability of Funds

It is understood and agreed between the parties herein that the agency shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

#### D. Award of Contract

Selection shall be made of one or more Offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the Offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each Offeror so selected, the agency shall select one Offeror which, in its opinion, has made the best proposal, and shall award the contract to that Offeror. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of Virginia*, § 11-65D). Should the Commonwealth determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the Offeror's proposal as negotiated.

#### E. Best and Final Offer (BAFO)

At the conclusion of negotiations, the Offeror(s) may be asked to submit in writing, a best and final offer (BAFO). After the BAFO is submitted, no further negotiations shall be conducted with the Offeror(s). The Offeror's proposal will be rescinded to combine and include the

information contained in the BAFO. The decision to award will be based on the final evaluation including the BAFO.

#### **F. Cancellation of Contract**

The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the Offeror. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the Offeror of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

#### **G. Final Inspection**

At the conclusion of the work, the Offeror shall demonstrate to the authorized owners representative that the work is fully operational and in compliance with contract specifications and codes. Any deficiencies shall be promptly and permanently corrected by the Offeror at the Offeror's sole expense prior to final acceptance of the work.

#### **H. Identification of Proposal Envelope**

If a special envelope is not furnished, or if return in the special envelope is not possible, the signed bid/proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: _____	_____	_____
Name of Bidder/Offeror	Due Date	Time
_____	_____	
Street or Box Number	RFP No.	
_____	_____	
City, State, Zip Code	RFP Title	
Name of Contract/Purchase Officer or Buyer: _____		

The envelope should be addressed as directed on the cover page of the solicitation.

If a proposal not contained in the special envelope is mailed, the Offeror takes the risk that the envelope, even if marked as described above, may be inadvertently opened and the information compromised which may cause the bid or proposal to be disqualified. Proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the envelope.

## **I. Indemnification**

Offeror agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Offeror/any services of any kind or nature furnished by the Offeror, provided that such liability is not attributable to the sole negligence of the using agency or to failure of the using agency to use the materials, goods, or equipment in the manner already and permanently described by the Offeror on the materials, goods or equipment delivered.

## **J. Minority/Women Owned Businesses Subcontracting and Reporting**

Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the Offeror is encouraged to offer such business to minority and/or women-owned businesses. Names of firms may be available from the buyer and/or from the Division of Purchases and Supply. When such business has been subcontracted to these firms and upon completion of the contract, the Offeror agrees to furnish the purchasing office the following information: name of firm, phone number, total dollar amount subcontracted and type of product/service provided.

## **K. Prime Contractor Responsibilities**

The prime contractor shall be responsible for completely supervising and directing the work under this contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this contract shall be responsible to the prime contractor. The prime contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

## **L. Product Information**

The Offeror shall clearly and specifically identify the product being offered and enclose complete and detailed descriptive literature, catalog cuts and specifications with the proposal to enable the Commonwealth to determine if the product offered meets the requirements of the solicitation. Failure to do so may cause the proposal to be considered nonresponsive. However, completion of this series of requirements should not be confused with a marketing exercise.

## **M. References**

Offerors shall provide a list of at least 3 references where similar goods and/or services have been provided. Each reference shall include the name of the organization, the complete mailing address, the name of the contact person and telephone number.

	Organization	Address	Contact Person	Telephone
1				
2				
3				

#### **N. Renewal of Contract**

This contract may be renewed by the Commonwealth upon written agreement of both parties for five (5) successive one year periods, under the terms of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration.

#### **O. Work Site Damages**

Any damage to existing utilities, equipment or finished surfaces resulting from the performance of this contract shall be repaired to the Commonwealth's satisfaction at the Offeror's expense.

#### **P. Selection Committee Questions**

The Offeror shall provide the name and telephone number of a point of contact who will be available to answer any question the Selection Committee may have regarding the Offeror's submitted proposal while the Selection Committee is in deliberation. The designated point of contact must have the knowledge and full authority to respond to the Committee's questions on behalf of the Offeror.

#### **Q. Excessive Downtime**

Equipment or software furnished under the contract shall be capable of continuous operation. Should the equipment or software become inoperable for a period of more than 24 hours, the Offeror agrees to pro-rate maintenance charges to account for each full day of inoperability. The period of inoperability shall commence upon initial notification. In the event the equipment or software remains inoperable for more than one (1) consecutive calendar days, the Offeror shall promptly replace the equipment or software at no charge upon request of the procuring agency. Such replacement shall be with new, unused product(s) of comparable quality, and must be installed and operational within one (1) days following the request for replacement.

### **II. Method Of Payment**

Section J of the General Terms and Conditions will govern method of payment.

### **III. Pricing Schedule**

Costs for each component and the requirements outlined in Section 1, VI must be provided UNDER SEPARATE COVER. Alternate strategies, optional tasks, cost options and peripheral tasks shall be priced separately so that it is possible to compute the overall cost using any combination of them.